

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DEL-MAUR FARMS, INC.,)	
a Nebraska Corporation,)	
)	4:04CV3282
Plaintiff,)	
)	
v.)	
)	MEMORANDUM AND ORDER
CARGILL, INCORPORATED d/b/a)	
Cargill Animal Nutrition and)	
EXCEL CORPORATION, a Delaware)	
Corporation,)	
)	
Defendants.)	
)	

The plaintiff has filed objections to the noticed depositions of Jim Redler and John A. Modrell. In its objections plaintiff asserts that these non-parties have no relevant information and also that the deposition of these deponents would be overly burdensome and unnecessary, and their expense would outweigh any benefits. Defendants have responded explaining why they believe the depositions are appropriate, and also seeking leave to complete them after the deposition deadline.

Defendants have the burden of demonstrating that the deponents have relevant information or that their information may lead to admissible evidence. Defendants have met that burden with their response to the objections. Plaintiff has the burden of demonstrating that the depositions would be unduly burdensome and/or costly in comparison to any benefit gained. Plaintiff has failed to meet that burden. Accordingly, I must overrule the objections. Having said that, however, in the event that the taking of the depositions does not produce relevant information or admissible evidence, plaintiff may later seek sanctions in the form of reimbursed expenses for having to attend the depositions.

IT THEREFORE HEREBY IS ORDERED,

1. Plaintiff's Objection to Notice to Serve Non-Party Jim Redler Subpoena, filing 139, is overruled.

2. Plaintiff's Objection to Notice to Serve Non-Party John A. Modrell Subpoena, Filing 140, is overruled.

3. Defendants are given until August 31, 2005 to complete these two depositions.

DATED this 9th day of August, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge